

**GOVERNMENT OF ANDHRA PRADESH
ABSTRACT**

Public Services – AP Secretariat Subordinate Service – Notional date of seniority in respect of certain Typist cum-Assistants by restoring their original places and also to incorporate their names in the seniority list of TCAs issued in U.O. Note No.226/SU.III/97-2, G.A. (SU.III) Department, dated 24.12.1997 – Confirming the provisional order – Orders – Issued.

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GENERAL ADMINISTRATION (SU.II) DEPARTMENT

G.O.Ms.No. 273

Dated:01-08-2014

Read the following:

- Ref:
1. UO. Note No.226/SU.III/97-2, GA (SU.III) Dept., dated 24.12.1997
 2. O.O. Rt.No.3419, GA (SU.III) Dept., dt.17.9.98
 3. U.O Note No.2311/SU.III/2000-2, dt. 03.0.2.2001.
 4. O.O. Ms No.263, GA (SU.III) Dept., dt.17.12.2008
 5. G.O.Ms.No.254, GA (SU.III) Dept., dt. 29.5.2009
 6. G.O. Ms.No.27, GA (SU.III) Dept., dt. 28.0.2014
 7. Orders of Hon'ble Tribunal dt. 4.12.2013 in its common judgement in OA No.2668/2011, OA No.2473/2011 and OA No.624/2013
 8. G.O. Ms.No.192, GA (SU.III) Dept., Dt.28.5.2014
 9. Representation of Sri P.Srinivasa Rao, TCA, GAD, dt.31.5.2014
 10. Representation of Sri S.Giridhar, Sri Sk. Mahaboob Basha and Sri SA Rasheed, dt.31.5.2014 received on 10.06.2014
 11. Memo No.38004/SU.III/A1/2013-1, GA (SU.III) Dept., dated 24.6.2014
 12. Lr.No.38004/SU.III/A1/2013-2, GA (SU.II) Dept., dated 01.07.2014 addressed to the Chief Secretary to Govt., Government of Telangana.
 13. Certain objections received from certain Section Officers of Govt.of Andhra Pradesh and Government of Telangana

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ORDER:

In the reference 1st read above, orders were issued regularizing the services of certain TCAs including Sri S.Giridhar, Sri Sk Mahaboob Basha, Sri SA Rasheed and sri P.Srinivasa Rao.

2. Consequent to receipt of Lr.No.C1/359/94, dated 15.3.1994 from the Commissioner, Commercial Taxes, requesting willing candidates for transfer to the posts of Jr.Assistant / Typist in Commercial Tax Department, the above TCAs were appointed by transfer as Jr.Assistant / Typist in Commercial Tax Department during the period June, 1994 to September, 1994 on their relief from the concerned Departments of Secretariat.

3. In the reference 2nd read above, Government rejected the request of the above said four TCAs and ordered for termination of their lien as per FR-14 in the cadre of TCA and also ordered to delete their names from the final seniority list issued in the reference 1st read above.

4. Aggrieved by the above order, all the above said four employees approached APAT by filing OA No.2668/2011 and OA No.2473/2011. Both the OAs were clubbed together along with another O.A. No.624/2013 and was disposed-off by APAT in its order dated 4.12.13. APAT made the following order:

(PTO)

*"84. In view of the above facts and circumstances in OA No.2668/2011 and OA No.2473/2011 are allowed and the impugned proceedings issued in the Office Order O.O.Rt.3419, GA (SU.III) Dept., dated 17.9.98, Memo No.27573/SU.III/99-1, GA (SU.III) Dept., dated 21.5.1999 and Memo No.20814/SU.III/A1/2007-13, GA (SU.III) Dept., dated 11.1.2011, are set aside. The applicants continue to have lien in the departments of Andhra Pradesh Secretariat. **The respondents are directed to repatriate the applicants to their parent departments in the Secretariat and after placing them at the appropriate places in the seniority lists in their parent department as per their seniority, consider cases for promotion to the higher posts on par with their juniors and pass appropriate orders within a period of two months from the date of receipt of the copy of this order**".*

5. In pursuance to the APAT orders, Government decided to implement the direction of APAT and ordered that the Commissioner (C.T) shall repatriate these four employees to the Spl.Chief Secretary to Govt., G.A. (Ser.) Dept., which in turn will fix their seniority in terms of Rule-33 of AP State and Subordinate Service Rule, 1996 vide reference 8th read above.

6. In the reference 9th and 10th read above, Sri P.Srinivasa Rao, Sri S.Giridhar, Sri Sk.Mahaboob Basha and Sri SA Rasheed have requested to promote them as Assistant Section Officer and Section Officer duly assigning notional dates of promotion on par with their juniors.

7. In the reference 11th read above, show cause notices have been issued to all the affected / likely to be affected TCAs, proposing to assign notional date of seniority by restoring their original places to the said four TCAs in the cadre of TCA in relaxation of Rule-11 (a) of the AP State and Subordinate Service Rules, 1996 under Rule-24 of the AP State and Subordinate Service Rules, 1996, duly calling for objections.

8. In the reference 12th read above, while enclosing copies of memo No.38004/SU.III/A1/2013-1, GA (SU.III) Dept., dated 24.06.2014, the Chief Secretary to Govt., Government of Telangana, Secretariat has been addressed requesting him to instruct the GA (SU) Department, Government of Telangana to serve the notices on all the affected employees of Telangana State.

9. In the reference 13th read above, certain Section Officers of Telangana Secretariat and Andhra Pradesh Secretariat have filed their objections. The objections were examined in detail and found that they are 'not valid reasons' since the issue raised by Section Officers has been elaborately dealt in the GO Ms.No.192, GA (SU.III) Department, dated 28.5.14 and also in the APAT order in OA No.2668/2011, dated 4.12.2013 and decided to implement the provisional decision. The reasons for rejection were indicated in the Annexure to this G.O.

10. Accordingly, Government, hereby **confirm** the provisional decision taken and assign the notional date of seniority by restoring original places to the above said four TCAs in the cadre of TCA in relaxation of Rule-33 (a) of the AP State and Subordinate Service Rules, 1996, as mentioned below:

- a) The name of Sri S.Giridhar shall be at Sl.No.71 between Smt M.Leela Kumari (Sl.No.70) and Smt K.Lalitha (Sl.No.72) in the final seniority list issued vide reference 1st read above.
- b) The name of Sri Sk.Mahaboob Basha shall be at Sl.No.91 between Sri M.Gopalakrishna (Sl.No.90) and Sri P.Srinivasa Rao (Sl.No.92) in the final seniority list issued vide reference 1st read above.

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- c) The name of Sri P.Srinivasa Rao shall be at Sl.No.92 between Sri Sk.Mahaboob Basha (Sl.No.91) and Sri TSVS Prasad (Sl.No.93) in the final seniority list issued vide reference 1st read above.
- d) The name of Sri Abdul Rasheed Syed shall be at Sl.No.97 between Sri A.Madhavakrishna Rao (Sl.No.96) and Sri G.Venkata swamy (Sl.No.98) in the final seniority list issued vide reference 1st read above.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

LINGARAJ PANIGRAHI
Spl. C.S. to Govt., GPM & AR & Accommodation &
Prl. Secretary to Govt., (Ser & HRM) (FAC)

To
All the Depts of the Secretariat of Andhra Pradesh and
Telangana Secretariat (with annexure).
SF/SC.

//FORWARDED BY ORDER//

SECTION OFFICER

Annexure to G.O.Ms.No. 273, G.A(SU-II) Department, dated.01.08.2014

S.No	Name of person & Designation	Objections	Remarks
1.	<p>Sri. V.Siva Prasad, SO, SCDD Dept. Sri. SK.Jeelani , S.O., TW Dept. Sri.A.Srinivasa Rao, SO, Sri. K. Bala Krishna ,SO, (all are from Telangana Secretariat)</p>	<p>They have stated that after deciding to implement the said orders of APAT calling the objections of the affected people are imprudent and against the natural justice. The Government ought to have called for the objections before taking a decision to implement the said APAT orders. When the rules are very clear in respect of lien and are issued by the same Government, violating the same and deciding to implement the said orders of APAT is unjust. It is highly objectionable that when the said 4 TCAs are not at all TCAs after they left to CT Department in the year 1994 and lost their lien in the year 1996, proposing to restoring their original places to the said (4) TCAs in the cadre of TCA. The mere issuance of the U.O.Note No.226/SU.III/97-2, G.A(SU.III) Dept., dt.24.12.1997 regularizing their services in the cadre of TCA it self wrong as the said TCAs have already lost their lien in the cadre of TCA in the year 1996.</p> <p>Further they also stated that bifurcation process is in swing in the Secretariat during the months March, 2014 to June, 2014. The said fact also might have shown to APAT. Issuing the orders vide</p>	<p>The objections raised now have been on the ground that TCAs now proposed to be assigned the seniority have lost their lien in 1996 itself, hence, Govt has erred in issuance of G.O.Ms No. 192, GA (SU.III) Dept., dt.28.5.14. The issue raised has been elaborately dealt in the above G.O. and also in the APAT common judgement in in OA No.2668/2011; OA No.2473/2011 and OA</p>

		<p>G.O.Ms.No.192, G.A(SU-III) Dept., dt.28.05.2014 is highly objectionable. Basing on the fraudulent precedence, issuing the said orders is illegal, arbitrary and against the natural justice.</p> <p>Further, they have stated that it is highly objectionable for proposing the notional date of seniority when the said four TCAs are not at all TCAs, after they left to CT Dept., in the year 1994 and lost their lien in the year 1996, to their original place in the cadre of TCA. Further they have requested to stop the process of assigning the notional date of seniority of the said 4 TCAs and approach the APAT by filing the review petition or to APHC by filing the WP challenging the orders of APAT dated 04.12.2013, duly canceling the orders issued in G.O.Ms.No.192, G.A(SU.III) Dept., dated 28.05.2014. They have once again requested Government the orders issued in G.O.Ms.No.192, G.A(SU.III) Dept., dated. 28.05.2014 need to be cancelled in the large interest of the employees.</p>	<p>No.624/2013, dated 4.12.13.</p> <p>Govt. has considered the APAT order and issued appropriate order in G.O.Ms.No. 192, GA (SU.III) Dept., dt.28.5.14 as per the order of APAT.</p> <p>In view of the above, the objections raised are not considered since they have been already examined in detail and confirm the provisional order.</p>
2.	<p>Sri. Venkata Subbaiah, SO, Rev. Sri G.Venkateswarlu, SO, TR&B Sri Y.Madan Mohan, SO, TR &B Smt J.Suchitra Lakshmi Sai, SO, TR & B; and Smt Ch.Kalyani, SO, TR&B</p>	<p>They raised the objections, that Sri S. Giridhar and 3 other TCAs were appointed by transfer as Junior Assistant / Typist in Commercial Taxes Department during the period June, 1994 to September, 1994. under Rule 16(b) of the General Rules, they were deemed to have</p>	<p>The objections raised now have been on the ground that TCAs now</p>

	<p>(All are from A.P.Secretariat)</p>	<p>commenced their probation from the date of appointment, after they worked continuously for 60 days. They acquired lien in Commercial Taxes Department. As such, their lien is liable for termination for the reasons that (i) they were deemed to have commenced their probation in the category of Junior Assistant / Typist in Commercial Taxes Department; and (ii) they remained absent from the post of Typist-cum-Assistant in A.P. Secretariat for a period exceeding three years. Therefore, in O.O.Rt.No.3419, General Administration (SU-III) Department, dated 17.09.1998, Government issued orders terminating their lien in A.P. Secretariat, under F.R.14. Their names were also deleted from the seniority list of TCAs issued in U.O.Note. No.226/SU-III/97-2, General Administration (SU-III) Department, dated 24.12.1997.</p> <p>There is no provision in the F.Rs for cancelation of the lien already terminated. It is learnt that these four individuals was promoted as Senior Assistants in the Office of the Commissioner, Commercial Taxes in the years 1999 and 2000 respectively and their probation was declared in that category. Hence, they were approved Probationers in the category of Senior Assistants of O/o CCT. Hence, their repatriation to Secretariat now is illegal.</p>	<p>proposed to be assigned the seniority have lost their lien in 1996 itself, hence, Govt has erred in issuance of G.O.Ms No. 192, GA (SU.III) Dept., dt.28.5.14. The issue raised has been elaborately dealt in the above G.O. and also in the APAT common judgement in OA No.2668/2011; OA No.2473/2011 and OA No.624/2013, dated 4.12.13.</p> <p>Govt. has considered the APAT order and issued appropriate order in G.O.Ms.No. 192, GA</p>
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	<p>They have further submitted that as per A.P. Secretariat Subordinate Service Rules and A.P. Secretariat Service Rules, one should complete minimum three years of service to become eligible for promotion to next higher posts. If the directions of the APAT are implemented, all these four persons have to be promoted to Section Officers without working as Asst. Section Officers. This is contrary to the provisions of Special Rules.</p> <p>Therefore, the proposal to assign notional seniority to the said four TCAs is objected on the following grounds:-</p> <p>i) That their appointment by transfer in Commercial Taxes Department was at their own selection and choice, in relaxation of rules and subject to further condition that they will forgo their seniority in the Secretariat. Hence, they have no right to come back to Secretariat Service now, after a lapse of two decades;</p> <p>ii) As per Rule 16(b) of the A.P. State & Subordinate Service Rules they were deemed to have been placed on probation in the posts in which they were appointed in the Commercial Taxes Department from the date of their appointment, as they continuously working in that Department;</p> <p>iii) As per FR 14, their lien was terminated by Government after satisfying the conditions stipulated and also by following due procedure in the year 1998 itself;</p>	<p>(SU.III) Dept., dt.28.5.14 as per the order of APAT.</p> <p>In view of the above, the objections raised are not considered since they have been already examined in detail and confirm the provisional order.</p>
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		<p>iv) Though it was not mentioned in the Show Cause Notice, it is presumed that their appeal against the termination of lien was also rejected by Government in the year 1999;</p> <p>v) They cannot challenge the said orders in the year 2011, i.e., after a lapse of 12 years. There is no justification in the matter;</p> <p>vi) it is learnt that they were promoted as Senior Assistants in the Commercial Taxes Department in the year 1999 and 2000 and their probation was also declared;</p> <p>vii) As per Section 21 of the Administrative Tribunal Act, 1985, the applications filed by the individuals are without limitation. The Tribunal ought to have been rejected them at the admission state itself. It is not known, whether Government filed Counter Affidavit bringing the said fact to the kind notice of the Tribunal. Had it been done, the Tribunal might have not issued the directions;</p> <p>viii) The Government should have been filed writ petition in the High Court against the orders of Tribunal, as they are contrary to the Rules and directions of Supreme Court, as submitted supra;</p> <p>ix) There is no public interest involved in this case to consider the relaxation of rules in their favour;</p> <p>x) it is not proper and justice on the part of Government to show undue favoritism to particular individuals while as many as 609 employees are affected by the said act. Government should act judiciously in the service matters.</p> <p>xi) The FRs / rules will apply to those persons who have been appointed according to them. Here, these four individuals were</p>	
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		<p>appointed by transfer in Commercial Taxes Department (HoD) at their own interest to gain advantage, in relaxation of Rules. Government cannot goes on relaxing rules in their favour as and when desires;</p> <p>xii) There are no compelling reasons / public interest to reconsider the decision of the Government terminating their lien and rejecting the appeal of the individuals thereon.</p>	
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Spl.CS (Accom. & GPM & AR) &
Pri.Secretary to Govt. (Ser. & HRM) FAC